

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JOHN DONOHUE,)	CASE NO. 7:13CV00397
)	
Plaintiff,)	
v.)	ORDER
)	
)	
LT. J. D. LAMBERT, <u>ET AL.</u>,)	By: Glen E. Conrad
)	Chief United States District Judge
Defendant(s).)	

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

as follows:

1. The Report and Recommendation (ECF No. 383) is **ADOPTED**, except as to its conclusions and recommendations regarding the bystander liability claims;
2. After de novo review of those portions of the report or specified proposed findings or recommendations that are subject to specific objections, pursuant to 28 U.S.C. § 636(b)(1), the objections to the Report and Recommendation filed by Defendants Carroll and White (ECF No. 395) are **OVERRULED**, and the defendants' second motion for summary judgment (ECF No. 347) is **GRANTED IN PART AND DENIED IN PART**; specifically, the motion is **GRANTED** as to plaintiff's claims that Defendants Gallihar, Blevins, Lambert, and Barton used excessive force when applying five-point restraints on June 6, 2013, and the clerk **WILL** terminate Blevins, Gallihar, and Barton as parties to the lawsuit; but the second motion for summary judgment (ECF No. 347) is **DENIED** as to all other excessive force and bystander liability claims and as to the following defendants

Deel, Franklin, Gilbert, Lambert, McCurdy, Mullins, Brinkley, White, and Carroll;

3. Defendant Payne's second motion for summary judgment (ECF No. 345) is **DENIED**;
4. After de novo review of those portions of the report or specified proposed findings or recommendations that are subject to specific objections, pursuant to 28 U.S.C. § 636(b)(1), Defendant McCowan's objections to the Report and Recommendation (ECF No. 392) are **OVERRULED**, and McCowan's second motion for summary judgment (ECF No. 343) is **DENIED**; and
5. This matter **SHALL** proceed to trial as scheduled on January 4, 2016, as to the remaining claims and defendants.

ENTER: This 31st day of December, 2015.

s/Glen E. Conrad

Chief United States District Judge